

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

WENDELL L. CRUSE,

Petitioner,

v.

Case No. 2:03-cv-942

JEFFREY A. WOLFE, Warden,

Respondent;

**JUDGE GRAHAM
Magistrate Judge KEMP**

WENDELL L. CRUSE,

Petitioner,

v.

**Case No. 2:04-cv-0157
JUDGE GRAHAM
Magistrate Judge KEMP**

JEFFREY A. WOLFE,

Respondent.

OPINION AND ORDER

On December 3, 2004, the Magistrate Judge issued a *Report and Recommendation* recommending that the petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed. On April 19, 2005, petitioner filed objections to the *Report and Recommendation*. Petitioner objects to all of the conclusions and all of the recommendations of the Magistrate Judge. Petitioner asserts that the procedural history is incorrect, and that the Magistrate Judge improperly or incorrectly reviewed the claims presented for federal habeas corpus review. Petitioner again raises all of the same arguments that were previously presented in support of his claims. Petitioner has also again filed a motion to expand the record, requesting the Court order respondent to provide:

1. A copy of the case file of Mary Younger, attorney with the Franklin County Public Defender's Office.
2. Any witness statements obtained by the Franklin County Public Defender's Office.
3. Copy of Pre-sentence investigation summary report.
4. Petitioner's federal and state income tax returns for 1989 to 1999.
5. Arrest report from California.
6. Transcript of the December 18, 2001, hearing in this case.

None of the foregoing documents are required for resolution of this action, and petitioner's request therefore is **DENIED**.

Petitioner has attached a letter from Mary Younger of the Franklin County Public Defenders Office, and from Wayne Miller, Assistant Director of Student Services at Franklin University. *See Exhibits to Motion to Expand Record; Exhibit A to Objections.* To the extent that petitioner requests that these documents be made a part of the record before this Court, petitioner's request is **GRANTED**.¹ However, for the reasons discussed at length in the Magistrate Judge's *Report and*

¹ Petitioner has attached to his objections a letter from Mary Younger dated November 11, 2001, in which Younger indicates that she has no recollection of any conversation with petitioner in the holding cell. Petitioner has also attached a letter from Wayne Miller, Assistant Director of Student Services at Franklin University which reflects courses taken by petitioner from winter 1990 to winter 1991, and in which Miller indicates:

Mr. Cruse did complete the requirements for a Bachelor of Public Administration degree with a major in Human Resources Management. He was unable to attend the commencement ceremony in August 1991. He needs to check with Franklin's Registrar's Office about the status of receiving an official transcript and his diploma it seems that he is in default of his student loans and needs to take care of that before receiving those items.

Recommendation, neither of the foregoing documents affects resolution of petitioner's claims here.

This Court has thoroughly examined the entire record in this case. Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a *de novo* review of those portions of the *Report and Recommendation* objected to by petitioner.

For the reasons discussed at length in the *Report and Recommendation*, petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This case is hereby **DISMISSED**.

IT IS SO ORDERED.

s/James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: April 29, 2005

Exhibit A to Objections.